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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: TERRORIST ATTACKS) 03-MDL-1570 (GBD) (SN)
ON SEPTEMBER 11, 2001)
)

— — —

Tuesday, July 20, 2021

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THIS TRANSCRIPT CONTAINS
CONFIDENTIAL MATERIAL

— — —

Remote video-recorded deposition of JONATHAN
BENTHALL, held at the location of the witness,
commencing at 12:03 p.m., on the above date, before
Debra A. Dibble, Certified Court Reporter,
Registered Diplomate Reporter, Certified Realtime
Captioner, Certified Realtime Reporter and Notary
Public.

— — —

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1 A. It was prepared by me for --
2 originally for other purposes and reviewed
3 and updated for this particular purpose.

4 Q. And I take it that everything
5 in here is accurate; correct?

6 A. I hope so. But barring typos
7 and things like that, it was certainly
8 compiled with the intention of being
9 accurate.

10 Q. So let's go through your formal
11 education, if we can, starting with your
12 undergraduate degree.

13 You have a degree in English
14 literature?

15 A. That's correct. English
16 language and literature, it was called.

17 Q. Okay. And that was from the --
18 that's from King's College in Cambridge?

19 A. Correct.

20 Q. And you graduated in 1962; is
21 that correct?

22 A. Correct.

23 Q. Was that the end of your formal
24 education?

25 A. That's correct.

1 Q. And I'm not sure, because
2 perhaps the British system is a little
3 different, it says MA.

4 Does that denote a master's
5 degree, or is that an undergraduate degree?

6 A. The MA, it's a rather
7 old-fashioned system that you can upgrade to
8 an MA just after a few years have passed. I
9 never took a master's degree.

10 Q. So you would have what's the
11 equivalent of an undergraduate degree in
12 English literature; fair?

13 A. That's correct.

14 Q. And was that the end of your
15 formal education?

16 A. It was the end of my formal
17 education, yes.

18 Q. Okay. And then you began
19 working 1964?

20 A. Correct.

21 Q. And I see here on the CV you
22 worked for International Teaching Machines
23 and also IBM United Kingdom; is that right?

24 A. Correct.

25 Q. Can you tell us what you did

1 for International Teaching Machines?

2 A. Well, this was right at the
3 ground floor of the automated learning
4 industry, which was at a very primitive
5 stage. It was based on microphone readers in
6 which you would -- they had -- well, they had
7 both linear programs where you just proceeded
8 through a series of lessons, one by one, and
9 then gave your answers.

10 Or there were branching
11 programs where you had a microphone where you
12 press buttons which jump the film from one
13 position to another. Extremely primitive,
14 before the age of computers, but some of the
15 principles of which later led to computer
16 assisted learning were being explored at the
17 time.

18 Q. The International Teaching
19 Machines, you've listed that as the Industry
20 of Finance.

21 Did you have some kind of
22 background in finance, or was your day-to-day
23 job dealing with financial matters while you
24 were at International Teaching Machines?

25 A. That paragraph is perhaps

1 misleading. I worked in industry and
2 finance. The financial aspect was as an
3 investment analyst with Henderson
4 Administration Limited, where International
5 Teaching Machines and IBM were the industry
6 part of that sentence.

7 MR. MALONEY: We're going to
8 have to do something to fix the volume
9 here, because I'm really having
10 trouble. I mean, I have the realtime,
11 which is obviously of great
12 assistance, but is there something we
13 can do to fix -- it's just terrible on
14 my end.

15 MR. NASSAR: Yeah, we have some
16 IT help, so if we can go off the
17 record for two minutes, I think we can
18 try to sort it out.

19 MR. MALONEY: Yeah, let's go
20 off the record.

21 THE VIDEOGRAPHER: Off the
22 record at 12:25 p.m.

23 (Recess taken, 12:25 p.m. to
24 12:28 p.m. BST)

25 THE VIDEOGRAPHER: Back on the

1 record at 12:28 p.m.

2 Q. (BY MR. MALONEY) Mr. Benthall,
3 before we went off the record, I was asking
4 you about the work you did for the five years
5 at International Teaching Machines and IBM.

6 My question is really this:
7 Did you do anything with regard to finances
8 or investment work as an investment analyst,
9 or were you more of a data entry-type of
10 person?

11 A. There, I was in the case of IBM
12 United -- International Teaching Machines, I
13 was really concerned with what was then
14 called program learning and preparing
15 programs for teaching all sorts of different
16 subjects, like biology or how to be an air
17 hostess, and things like that.

18 With IBM, I did different
19 things. I was working on the System360 and
20 trying to help one of their big customers,
21 which was ICI Paints division, get their
22 computer working on things like the share
23 register and other things. But it was --
24 systems engineer was a rather absurdly grand
25 name for my actual tasks, but that was what

1 they called it.

2 I think it was -- I also went
3 through their sales school, because IBM at
4 that time based their sales school on how --
5 on who was selling, so I did a bit of sales.
6 And then I moved to head office for a time
7 and got to know a bit about how this big
8 international, multinational company was
9 structured with its organograms and its report
10 relationship between IBM United Kingdom and
11 IBM World Trade, which was a huge
12 bureaucracy, with some technical methodology.

13 Now, when I moved to Henderson
14 Administration Limited, that was quite
15 different. Nothing to do with computers.
16 Henderson Administration was a major
17 investment trust manager, with some very big
18 investment trusts. One was called the Wytan,
19 W-Y-T-A-N, Investment Trust, and I was doing
20 investment analysis and stock market analysis
21 and trying to read balance sheets and
22 determine how strong a company was, and on
23 occasion, visit a company to interview the
24 managers on behalf of the investment
25 managers. So that's what I did during that

1 short period.

2 Q. Let me see if I can break that
3 up.

4 So at International Teaching
5 Machines, you didn't have any work or
6 involvement with finance; correct?

7 A. Correct.

8 Q. And at IBM, you didn't have any
9 work with regard to finance or investment;
10 correct?

11 A. I had -- that's correct, but I
12 did have work to do with root financial
13 reporting and relationships between national
14 branches, national companies set up by IBM
15 and World Trade Center in America, which was
16 coordinating all of these companies, all of
17 these national branches or affiliates of IBM.

18 Q. So let me see if I understand
19 that. You were involved with financial
20 reporting, reviewing that material for
21 worldwide branches of IBM?

22 A. I was -- I find it a little
23 hard to remember now. It was a fairly short
24 period, but I was one of the -- one of the
25 problems I was looking at was the

1 relationship between the -- between IBM
2 United Kingdom and the wider structure that
3 IBM and the particular problems that IBM had
4 in maintaining its overall oversight of what
5 was going on in each country.

6 And you recall these were days
7 when antitrust legislation was very
8 important, because IBM had been the subject
9 of some antitrust suits in the United States.
10 And the law of the United States on antitrust
11 extended to the United Kingdom, and so I was
12 engaged in a little bit of what was called
13 commercial analysis, which was looking at the
14 competitors of IBM and how they're different
15 and how IBM United Kingdom positioned itself
16 with regard to its British competitors. So
17 there was a little bit of that as well.

18 So I learned something about
19 corporate organization, particularly with
20 regard to multinational companies.

21 Q. And was it important to have
22 reporting -- was it important to have the
23 reporting requirements comply with the law?

24 A. Absolutely. Not just with
25 British law, but with American antitrust law.

1 Q. And was it important to have
2 full transparency for the authorities on the
3 financial matters for IBM?

4 A. As far as I'm aware, I did
5 again -- nobody accused IBM at any time of
6 any transgressions, and they were extremely
7 careful to comply with both domestic law and
8 U.S. antitrust law.

9 Q. And so all their financial
10 transactions would be documented and be
11 readily available for anybody who was
12 authorized to look at them. Fair?

13 MR. NASSAR: Objection,
14 foundation.

15 A. I was at a very junior level.
16 I was in my 20s, and I didn't have access to
17 very high institutional politics. I was just
18 asked to analyze certain documents from time
19 to time.

20 Q. (BY MR. MALONEY) When you
21 say --

22 A. I can't --

23 Q. Sorry.

24 A. I can't say that I was senior
25 enough in the company to have had any real

1 responsibility for transparent reporting or
2 anything of the kind. I was doing the junior
3 analytical work, such as you would expect
4 somebody in their 20s with no particular
5 accounting qualifications to do.

6 Q. I guess that's what I was
7 getting at. What qualifications did you have
8 to do analytical work on any of the financial
9 matters?

10 A. Well, they had a policy of
11 appointing people from all sorts of education
12 and putting them through tasks that they
13 might not have had a training. But I think
14 it's pretty usual, for instance, with
15 McKinseys and companies like that, they pick
16 people with all sorts of educational
17 backgrounds.

18 Q. How long did you stay at IBM in
19 that junior position?

20 A. I think it must have been
21 about -- I think it must have been about two
22 or maybe three years.

23 Q. So two or three of the
24 five-year period from 1964 to 1969; is that
25 fair?

1 A. Yes.

2 Q. And then how long were you at
3 Henderson Administration?

4 A. That was about two years.

5 Q. Okay. So let's go back to the
6 beginning, International Teaching Machines.

7 Were you there a year or less
8 than a year?

9 A. I think that was about one year
10 or a little more than two, two or three years
11 at IBM and two or three years at Henderson
12 Administration. I can't recall the exact
13 dates I left --

14 Q. And can you --

15 Sorry.

16 A. Sorry, please complete the
17 question.

18 Q. Yeah. What were you doing as
19 an investment analyst at Henderson?

20 A. I was given very swift basic
21 training in investment analysis and was put
22 to work on analyzing company reports and
23 balance sheets and stock market reports and
24 occasionally visiting companies to interview
25 the managers and join in recommendations to

1 managers as to whether they should either
2 invest or sell their stocks, if they -- if
3 the stock was not doing so well; if the
4 company was not doing so well or its
5 prospects did not seem very good.

6 Q. And in analyzing, I take it you
7 reviewed various documents and materials
8 about the investment or the company that
9 investors were looking at; is that fair?

10 A. Yes.

11 Q. That would include balance
12 sheets, that would include profits, losses,
13 things like that?

14 A. Yes. I learned how to read a
15 balance sheet, which was, I found, very
16 useful in later life because I find that many
17 very high-powered academics that I worked
18 with later in my career were completely
19 unable to read a balance sheet. They didn't
20 often want to admit it.

21 So I did find it useful to have
22 had this admittedly basic training in
23 financial matters that I learned in the City
24 of London.

25 Q. By the way, those financial

1 transactions were -- were they being done in
2 cash or something else?

3 A. No. This was all done through
4 the stock market except perhaps occasionally
5 with a starter, with a company that financed
6 start-up companies.

7 Q. It's fair to say that there was
8 a paper trail for everything; correct?

9 MR. NASSAR: Objection,
10 foundation.

11 A. I would imagine. The company
12 that I worked for was one of the leaders in
13 the field. They were closely linked with
14 perhaps the most prestigious stockbroker at
15 the time, called Cazenove; and I had no
16 reason to think that they didn't behave
17 extremely ethically, and also very much
18 opposed to insider trading and taking steps
19 to avoid anything of that kind.

20 Q. (BY MR. MALONEY) And one of
21 the ways to do that is to have a
22 well-documented file for all the work that's
23 being performed at Henderson; correct?

24 MR. NASSAR: Objection, form.

25 A. I have no reason to believe

1 that there was anything inappropriate about
2 their documentation. And if there was any
3 indication that a company was behaving badly,
4 then this is a black mark. In fact, I
5 remember that Robert Maxwell was a prominent
6 industrialist or commercial figure at that
7 time, and he was very much given the cold
8 shoulder because people thought he had cut
9 too many corners.

10 He had gone bankrupt and then
11 resumed his activities, and this was thought
12 to be very bad behavior, and they wouldn't
13 invest -- they didn't invest in any of his
14 pensions.

15 Q. (BY MR. MALONEY) Mr. Benthall,
16 my question was a little bit more general.
17 The way to stay out of trouble is to comply
18 with the law and document everything you're
19 doing so that there's a paper trail, so that
20 there's transparency when it's needed.

21 Was that something that was
22 being practiced at Henderson when you were
23 there?

24 MR. NASSAR: Objection, form;
25 objection, foundation.

1 A. To the very best of my
2 knowledge, that was the case.

3 Q. (BY MR. MALONEY) And was it
4 also the case as an analyst looking at
5 investments, that's something that you'd want
6 to be assured of, that there was a full
7 transparency and a paper trail concerning an
8 investment that you were being asked to
9 analyze. Fair?

10 MR. NASSAR: Same objections.

11 A. At the time, I did what I was
12 told. I was very junior. I was picking up
13 as much knowledge as I could, and it's -- it
14 never occurred to me that my employer was
15 doing anything but observing the law. They
16 were a highly regarded investment house.

17 Q. (BY MR. MALONEY) Again, my
18 question is slightly different than your
19 answer, and that is, you would want part of
20 your work to assure yourself that whatever
21 investment you were analyzing, that you could
22 read with full transparency any documentation
23 concerning financial matters for the
24 investment that you were analyzing; fair?

25 A. Yes.

1 MR. NASSAR: Objection, form.

2 A. That was my -- that was my
3 belief at the time, that -- the integrity of
4 the company and its compliance with the law
5 was very important.

6 Q. (BY MR. MALONEY) In other
7 words, you wouldn't accept somebody just to
8 tell you: Everything's fine here, that guy
9 is a friend of mine, let's invest with them.
10 You'd want to see the data. You'd want to
11 see documentation. You'd want to see
12 financial records; correct?

13 MR. NASSAR: Objection, form.

14 A. Well, this was the City of
15 London. This was an investment house that
16 was very much working at arm's length from
17 actual companies. They were -- it wasn't a
18 company that was -- that was engaged in
19 commercial and industrial projects of its
20 own. It was analyzing -- analyzing documents
21 and occasionally visiting the principals of
22 companies. I don't quite see the bearing --
23 see quite what you're asking me.

24 Q. (BY MR. MALONEY) It's a simple
25 question in terms of what's the standard

1 operating procedure that you employed as an
2 investment analyst. That's what I'm getting
3 at.

4 A. Yes, sir, I was working in a
5 major institution of the City of London,
6 which, as far as I'm aware at -- or was aware
7 at the time and am aware now, had very high
8 standards of analyzing investments and making
9 investments -- investment decisions as a
10 result of that analysis.

11 Q. Okay. And you did that for
12 some -- approximately two years, I think you
13 said --

14 A. Yes.

15 Q. -- as a junior --

16 A. Yes. Yes.

17 Q. And your next job from 1970 to
18 1973 was a lectures program organizer and
19 secretary for the Institute of Contemporary
20 Arts in London; is that right?

21 A. That's correct.

22 Q. Can you just describe basically
23 what you did there? Withdrawn.

24 How did you go from being an
25 investment analyst to a Contemporary Arts

1 Institute?

2 A. Well, that's a good question.

3 I'll try to answer it. While I was working
4 for the Henderson Administration Limited, and
5 I have to admit that I wasn't -- I didn't
6 find that this is my true vocation working in
7 the city.

8 I did my job there, but I
9 didn't find it was my true vocation. I had
10 quite a lot of spare time. And during that
11 spare time, I took an interest in something
12 that interested me particularly because of my
13 experience with International Teaching
14 Machines and IBM and matters to do with
15 modern technology, and I was also interested
16 in contemporary art; and putting those two
17 things together, I began to write a monthly
18 column for an art magazine called Studio
19 International.

20 And also in 1968, which was
21 where I was working for, I think by then, I
22 had made the switch to Henderson
23 Administrated Limited. I visited New York
24 and had already written an article about a
25 celebrated American artist Roy Lichtenstein,

1 and I was -- happened to go to the Hart Weiss
2 Gallery in New York and was blown away by one
3 particular sculptor there. A
4 Chinese-American sculptor called Tsai,
5 Wen-Ying, and I wrote about his -- I was one
6 of the first people to write about his art,
7 which was called cybernetic sculpture, which
8 was using strobe lights and vibrating rods to
9 create certain sort of visual illusions.

10 And at the same time, in that
11 year, 1968, there was an exhibition at the
12 Institute of Contemporary Arts called
13 Cybernetic Serendipity which included a lot
14 of artists using modern technology,
15 particularly computers.

16 And I got to know a lot of
17 people who were working in this field, and as
18 a result, I started writing a monthly column
19 for Studio International, which was not a
20 job; it was just something that I did with
21 either no pay at all or very modest fee.

22 But I was -- the directors of
23 the Institute of Contemporary Arts were
24 attracted by my work and invited me to become
25 the first lectures program organizer, and

1 then the secretary; that is, the
2 administrative secretary of the institute.

3 And as it says in my CV, I was
4 responsible for lectures, some of -- some
5 lecture programs, also for some exhibitions,
6 and mixed media program and in 1973, a French
7 program for which I raised funds for the
8 British government to celebrate the entry of
9 Britain into the European common market,
10 which, unfortunately, from my point of view,
11 was -- didn't last as long as it should have.

12 But it was a cultural program
13 that I co-organized with the cultural attaché
14 for the French embassy in London and the
15 director of the French Institute in London,
16 and it was quite successful; and, in fact, I
17 was given a decoration by the French
18 government for my work on French and British
19 cultural relations.

20 Q. Why did you leave in '73?

21 A. Because the -- well, the --
22 while at the -- while at the Institute of
23 Contemporary Arts, the ICA, I was invited
24 to -- as I said, my main role started there
25 as a lectures program organizer, and I

1 organized three series of lectures. The
2 first was called Ecology in Theory and
3 Practice, which was about the environmental
4 movement.

5 Q. Mr. Benthall, I'm sorry. I'm
6 sorry for interrupting you. I -- we have a
7 limited time, and my question is: Why did
8 you leave? I'm not sure if you're answering
9 that in a roundabout way. I just want to
10 know why you left.

11 A. You're asking presumably what
12 was the transition between working for the
13 Institute of Contemporary Arts, and I'm
14 trying to explain.

15 Q. Yeah, I haven't asked that yet.
16 Sp try not to anticipate.

17 If your answer is you left the
18 Contemporary Arts Institute is because you
19 got another offer at the Royal
20 Anthropological Institute, that would be the
21 answer, but if there's some other reason you
22 left, that's all I'm asking.

23 A. Well, that is, in short, the
24 answer, yes. Could I just have a glass of
25 water?

1 Q. By the way, we can take a break
2 any time you need to.

3 A. No, that's fine. But I'm fine.
4 Let's carry on.

5 Q. Okay. I would try -- I would
6 suggest to try to focus on my question and be
7 as concise as you can. I don't want to
8 interrupt your answers.

9 A. I'll try.

10 Q. But sometimes you may digress a
11 little bit, and that's normally okay, but not
12 for today.

13 A. Okay.

14 Q. Okay. So you left the
15 Contemporary Arts Institute because you got
16 an offer to work at the Royal Anthropological
17 Institute of Great Britain; correct?

18 A. To be more exact, my contract
19 with the Institute of Contemporary Art had
20 lapsed before then, and so when I -- I did
21 spend a year writing a book and freelancing
22 before I was appointed to the Royal
23 Anthropological Institute.

24 Q. Okay. So sorry, let me take a
25 step back, then. You had a contract with at

1 the Contemporary Arts Institute.

2 Was it a three-year contract?

3 A. No. It was a shorter contract,
4 and there was a reorganization. And at the
5 end of '72 and the beginning of '73, my
6 contract came to an end. So I was
7 freelancing for a few months in '73 before I
8 actually took up the job as director of the
9 Royal Anthropological Institute.

10 Q. And they decided not to renew
11 your contract; is that correct?

12 A. Yes. It was a reorganization,
13 yes.

14 Q. Okay. So essentially you were
15 let go. They didn't renew your contract.
16 Then you began freelancing sometime in 1973?

17 MR. NASSAR: Objection,
18 mischaracterizes his testimony.

19 A. Unfortunately, I was let go.
20 It was my choice to work for them. And by --
21 I didn't -- and I wanted some spare time to
22 work on a book.

23 Q. (BY MR. MALONEY) So it was
24 your choice to leave the Arts Institute
25 because you wanted to work on a book; is that

1 right?

2 A. That's as far as I remember the
3 case, yes.

4 Q. Okay. And what book was that
5 that you wanted to work on?

6 A. It was called The Body
7 Electric: Patterns of Industrial -- Patterns
8 of Western Industrial Culture.

9 Q. And did you get that published
10 at some point?

11 A. I did.

12 Q. When was that published?

13 A. It was published I think in
14 19 -- 1976.

15 Q. Okay.

16 A. In fact, I'm sure, 1976.

17 Q. Okay. So you spent sometime
18 between 1973 and 1974 doing freelance work
19 and working on that book; is that right?

20 A. That's correct.

21 Q. And then how was it that you
22 came to be the director of the Royal
23 Anthropological Institute of Great Britain
24 and Ireland in 1974?

25 A. Well, the post became free at

1 the end of -- I first applied for the job at
2 the -- it was advertised at the end of 1972,
3 and I was interviewed for the job, and I was
4 the runner-up. They appointed somebody else
5 to be director of the Royal Anthropological
6 Institute, but he turned out to be a disaster
7 because he turned out to be an alcoholic and
8 had to be fired after three months, I think.

9 So they then said, are you --
10 would you be interested in taking this job?
11 And so I got in without a further interview
12 to start work on January 1974.

13 Q. What background did you have in
14 anthropology?

15 A. Well, this is why I was -- I
16 shouldn't have anticipated your question, but
17 I was -- I must refer to the lectures that I
18 organized at the Institute of Contemporary
19 Arts -- I'll try to be brief, but the first
20 one was on Ecology in Theory and Practice
21 about the environment and conservation in the
22 very broadest sense.

23 The second was called The
24 Limits of Human Nature, and the third was
25 called The Body as a Medium of Expression;

1 as a consultant to give an expert opinion and
2 report in this lawsuit, brought by 9/11
3 victims.

4 So, sir, I'm asking you why
5 were you hired? What is your expertise in
6 connection with this case?^ is there an
7 objection in here??

8 A. I rely on my extensive
9 publication record of numerous books and
10 articles which have been peer-reviewed in
11 many countries, including the United States,
12 Switzerland, Britain, and other countries.
13 But many peer-reviewed articles, and I think
14 I'm accepted quite widely as one of the
15 leading experts in Islamic charities; and in
16 particular not just the academic aspects of
17 Islamic charities but more practical aspects
18 relating to questions like counterterrorism
19 and the like.

20 Q. So I take it, then, you
21 consider yourself to be an expert in Islamic
22 charities; correct?

23 A. Yes.

24 Q. Do you consider yourself an
25 expert in money laundering?

1 A. I consider myself an expert on
2 aspects of money laundering as they pertain
3 to Islamic charities.

4 Q. What kind of training and
5 background do you have on money laundering
6 and investigating money laundering?

7 A. I don't have any formal
8 training on that.

9 Q. So how is it that you consider
10 yourself to be an expert in that area?

11 MR. NASSAR: Objection,
12 mischaracterizes his testimony. He
13 did not testify to that.

14 Q. (BY MR. MALONEY) Sir --

15 A. I have been --

16 Q. Sir, let me restate the
17 question.

18 Do you consider yourself to be
19 an expert in money laundering?

20 MR. NASSAR: Objection, asked
21 and answered.

22 A. I think I've answered that
23 question. With regards to money laundering
24 aspects relating to Islamic charities, I
25 consider I have expertise.

1 of -- that were being published by the U.S.
2 treasury at that time.

3 Q. (BY MR. MALONEY) When you say
4 you were engaged in collective discussion,
5 what did you specifically do to fix or change
6 any of the auditing procedures at any of the
7 charities, you personally?

8 A. I didn't -- I certainly didn't
9 succeed myself in altering any particular
10 charities procedures.

11 I was engaged --

12 Q. Did you --

13 A. Sorry.

14 Q. Okay. Earlier I asked you if
15 you considered yourself an expert in terror
16 financing, and you said with regard to
17 charities, you did consider yourself such an
18 expert.

19 Have you ever been disqualified
20 as an expert in any subject area by a court?

21 A. I recall in the Arab Bank case,
22 that -- this was particular to do with
23 Palestinian cap committees. From what I
24 recall, my expertise was partially accepted
25 and partly declined by the judge.

1 Q. What was excluded? What parts
2 of your opinion or expertise was excluded,
3 and why was it excluded?

4 A. I can't remember. Could you
5 show me the document that you're referring
6 to? This would help me to refresh my memory.

7 Q. I'm going to ask you your
8 memory. Did you consider that a big deal
9 when a court said you were not qualified to
10 give an expert opinion in a subject area? Is
11 that something you remember or not?

12 MR. NASSAR: Objection, form.

13 Those are two separate questions. Are
14 you asking does he think it's a big
15 deal or whether he remembers it?

16 MR. MALONEY: I'm asking if he
17 remembers it.

18 A. I remember quite vaguely that
19 there was -- there were a lot of developments
20 in that case, and I can't remember the
21 details of -- if you would show me the
22 document, I could refresh my memory about it,
23 but I can't remember exactly what the problem
24 was.

25 Q. (BY MR. MALONEY) Did the

1 Q. One reason might be because
2 they wanted to hide what they were doing;
3 correct?

4 A. It's a possible reason.

5 Q. If we could go to the next page
6 of your report, page 2, you speak about
7 Muwafaq operating in certain locations in the
8 world where there was violence and war taking
9 place, and you identified in Bosnia, the
10 Bosnian war of 1992 to 1995; correct?

11 A. Yes.

12 Q. Top of the page?

13 A. Yes.

14 Q. And you also identified Muwafaq
15 as operating in the Sudan in 1992 and
16 ninety -- through 1996; correct?

17 A. Correct.

18 Q. And you also talk about Muwafaq
19 operating in Pakistan; correct?

20 A. Yes.

21 Q. In each of those three places,
22 were you aware that al-Qaeda had a presence?

23 MR. NASSAR: Objection.

24 A. I'm not sure that al-Qaeda had
25 a presence in the Bosnian war in 1992 to

1 A. I'm not aware of such reports.

2 Q. Okay. Did you study, research,
3 and evaluate whether or not Muwafaq in Bosnia
4 was supporting any of the al-Qaeda operatives
5 or those that you describe as loosely
6 affiliated with al-Qaeda?

7 A. I've looked at the evidence
8 presented in this case, and I couldn't find
9 any such evidence.

10 Q. Okay. You agree, however, that
11 Muwafaq was in Sudan during '92 to '96 when
12 al-Qaeda had a large presence in the Sudan
13 during that time frame; correct?

14 A. Al-Qaeda -- just remind me of
15 the dates you're talking about.

16 Q. 1992 to 1996.

17 A. 1992 to 1996. And so it's very
18 difficult working from memory, because it has
19 a -- it's a very complicated period then.
20 But I think you're -- I think it is true that
21 the -- that -- I think Bin Laden was there at
22 the time, yes.

23 Q. Yes. I think most every expert
24 has reported that Bin Laden was in Sudan from
25 at least 1992 to 1996, which is what I think

1 you just said; correct?

2 A. I believe that's the case.

3 Q. And, sir, are you aware that he
4 had a substantial number of al-Qaeda
5 operatives with him in the Sudan during that
6 same time period?

7 A. He had a circle of people
8 around him at that time, yes.

9 Q. And were you aware that
10 Bin Laden, Osama Bin Laden had a close
11 relationship with the Sudanese government?

12 A. They allowed him to stay there,
13 it's true.

14 Q. Well, they did more than that.
15 They actually worked together on projects;
16 correct?

17 A. Which projects are you
18 referring to?

19 Q. Well, that's a good question.
20 Bin Laden actually had a construction
21 background and performed some construction in
22 the Sudan through the Saudi Binladin Group;
23 is that right?

24 A. I believe that -- I believe
25 that that was the case, yes, but I don't -- I

1 of the organizations that are habitually
2 extremely critical of Islamic organization.
3 When I said hostile, I didn't mean to
4 attribute any kind of unworthy animus against
5 the Muslim World League. It's just that
6 there are many people who are convinced that
7 it was a not particularly applicable
8 organization. I was looking for a book or an
9 article that sets out an analysis of the
10 Muslim World League with no kind of ax to
11 grind, either way, and I think I found it in
12 this German book. Unfortunately, I don't
13 read German, but this --

14 Q. (BY MR. MALONEY) Sir, sir,
15 please, try to stay confined to my question.
16 You didn't answer my question. You defaulted
17 to a defense of -- or at least a pushback on
18 the hostile or dismissive treatment. I asked
19 you a simple question and that is whether or
20 not you considered the possible --
21 possibility of bias on the part of the Muslim
22 World League on material that they put out,
23 "yes" or "no."

24 A. Yes.

25 Q. Okay. Was Mr. Kadi present in

1 the Sudan from -- in 1992 to '96?

2 A. I'm just going to look at my
3 report to remind myself of the dates.

4 Q. Well, you stated in your report
5 that Muwafaq was present. I'm asking you
6 specifically about Mr. Kadi himself.

7 A. I don't remember, I'm afraid.

8 Q. You can't remember. You
9 studied Mr. Kadi's conduct for your
10 consulting report and deposition testimony
11 today; correct?

12 A. I can't remember whether he was
13 actually present in Sudan at the time.

14 Q. Do you know if Mr. Kadi had
15 businesses in the Sudan during that time
16 period?

17 A. Yes, he did.

18 Q. Which businesses did he have in
19 Sudan in the years 1992 through '96 or later?

20 A. I'm trying to remember exactly
21 what the businesses were, but I think they
22 were -- I think they were -- scrap metal is
23 one of them. Sesame seeds, all sorts of
24 things. He diversified into a large number
25 of enterprises, and I -- my focus has been on

1 the activity --

2 Q. Sir, your voice is trailing
3 off. I can't hear you.

4 A. He had diversified interests of
5 many kinds, and I -- if I could just consult,
6 just to refresh my memory, to look at the...

7 Yes, he had -- yes, he
8 certainly had financial interests of many
9 kinds. From what I remember, in sesame
10 seeds, possibly waste -- scrap metal
11 disposal, and he was a -- also in
12 agricultural products, though I haven't
13 studied his commercial activities
14 intensively.

15 Q. Wouldn't that be important for
16 you to study if you're going to render an
17 opinion and provide testimony concerning
18 Mr. Kadi's conduct in this case, as it
19 relates to this case?

20 A. But I wasn't asked to give a
21 narrative history of all of his commercial
22 activities, and I didn't provide it.

23 Q. Did you ever read any reports
24 or obtain material that alleged that some of
25 the Kadi businesses employed al-Qaeda

1 operatives in the Sudan?

2 A. There have been so many
3 documents I've looked at in this -- compiling
4 this report which was done over quite a short
5 period in January. If you'd show me the
6 documents concerned, then I'd be very happy
7 to comment on them.

8 Q. Well, sir, I'm asking you, did
9 you -- when you sat down to write a report on
10 Mr. Kadi and prepared for this deposition to
11 provide testimony about Mr. Kadi and
12 financing al-Qaeda terrorists, wouldn't that
13 be something you would want to take a deep
14 dive in to look at his businesses as well as
15 the Islamic charities?

16 A. I was asked to provide
17 certain -- to answer certain questions by the
18 attorneys, and I answered those questions to
19 the best of my ability.

20 Q. So earlier you considered
21 yourself an expert in Islamic charities.

22 Do you consider yourself an
23 expert in businesses that Mr. Kadi had?

24 A. No, I don't consider myself an
25 expert in businesses that Mr. Kadi had.

1 Q. Do you consider yourself an
2 expert in the establishment of shell
3 corporations?

4 A. Could you define what you mean
5 by shell corporations?

6 Q. Yeah. A corporation that
7 doesn't do anything, and it's used to hide or
8 mask the true activities or the flow of
9 money.

10 A. Well, I am aware of these shell
11 organizations, and if -- in my expert report,
12 I think I referred to the American Friends of
13 Afghanistan, which was a kind of shell
14 charity that was actually financed by the
15 American government but purported to be
16 another charity, such as a shell charity.

17 And there are other examples I
18 can think of --

19 Q. Are you an expert in shell
20 corporations, shell companies?

21 A. No, I'm not.

22 Q. Is it fair to say you did not
23 do an investigation of Mr. Kadi's companies
24 in the Sudan other than what you've already
25 told us?

1 A. I didn't do an investigation,
2 but I was asked to do a rebuttal of
3 Mr. Comras' report, which mentions some of
4 the activities in the Sudan.

5 Q. Well, what did you do to
6 investigate or to rebut Mr. Comras' opinions
7 regarding Mr. Kadi's businesses in the Sudan?

8 A. My emphasis on -- my rebuttal
9 to Mr. Comras' report was on his methodology,
10 I think almost exclusively on his
11 methodology, which he claimed social science
12 competency. He actually talked about his own
13 social science research, but I don't see any
14 evidence in his report of any kind of respect
15 for social science norms and procedures.

16 Q. So you -- so is it fair to say
17 that you did no investigation of Mr. Kadi's
18 companies in the Sudan or elsewhere as part
19 of your consulting work; correct?

20 A. That's correct.

21 Q. Are there any documents or
22 material that you asked the attorneys for
23 while doing your work on the Kadi matter that
24 you didn't receive?

25 A. No, I thought there was an

1 Q. And was Mr. Kadi one of them?

2 A. That -- no, I don't think he
3 was personally a shareholder.

4 Q. One of his entities?

5 A. I -- yes.

6 Q. Which one?

7 A. I've already said, Luxor was
8 going -- I believe was wholly-owned by him;
9 and the Muwafaq Foundation, of which he was a
10 trustee.

11 Q. Okay. And how about Mr. Kadi's
12 investments in Al Shamal Bank, what do you
13 know about that?

14 A. I can't remember anything about
15 that, I'm afraid.

16 Q. Do you know if Bin Laden was a
17 shareholder in Al Shamal Bank?

18 A. I can't remember.

19 Q. Do you consider yourself an
20 expert in al-Qaeda?

21 A. No, I don't.

22 Q. Have you ever studied al-Qaeda
23 and how they were -- how they raised funds?

24 A. I have read a lot about the
25 history of al-Qaeda from various sources. I

1 did a lot of research in the last few years.

2 I've read it with great interest, but I
3 wouldn't hold myself out as an expert on the
4 history of al-Qaeda, no.

5 Q. Do you know how al-Qaeda was
6 funded and financed?

7 A. No, I don't. Do you?

8 Q. I'm asking you, sir.

9 A. I don't.

10 Q. Do you know if they were funded
11 by Islamic charities?

12 A. I don't.

13 Q. Do you know if they were funded
14 by Mr. Kadi in part?

15 A. I haven't seen any evidence to
16 that effect.

17 Q. Let's turn to your report again
18 and go to the page on methodology, which I
19 think is page 8.

20 A. This is the Kadi report we are
21 talking about, yes?

22 Q. Yes, sir.

23 A. I have it.

24 Q. When I'm done, Mr. Carter may
25 have questions about the IIRO report. I'm

1 not certain. But I'm going to be sticking
2 just to the Kadi report.

3 So page 8 is your page of your
4 Kadi report that describes your methodology
5 for rendering an opinion in this matter;
6 correct?

7 A. Yes.

8 Q. And at the bottom of page 8,
9 you've listed two categories with subparts on
10 your methodology.

11 Is that a fair description?

12 A. Yes.

13 Q. And in the first category, I
14 counted around eight different sources that
15 you used that you consider to be, first and
16 foremost, where you would first start your
17 investigation, and that's primary sources;
18 correct?

19 A. Yes.

20 Q. So the first one is:
21 Interviews with all relevant interlocutors,
22 such as charity workers and trustees, both
23 remunerated and unpaid, both active and
24 retired.

25 You wrote that, right, sir?

1 A. Yes.

2 Q. And who did you interview for
3 this report?

4 A. This is a general statement
5 about methodology, not necessarily related to
6 a specific report; but it's a kind of
7 perspective of the process of doing research,
8 which --

9 Q. So you've -- you're describing
10 in general --

11 MR. SALERNO: Excuse me,
12 Mr. Maloney, please don't interrupt
13 the witness when he's still trying to
14 answer.

15 MR. MALONEY: Okay.
16 Mr. Benthall, I'm going to ask you to
17 try to keep your answers as concise as
18 possible. I know it's not easy. I
19 know that your personality, and it's
20 not a knock on you, you tend to go on.
21 I would prefer you to be as concise as
22 possible because we have a time
23 constraint here.

24 A. You've asked me some very
25 general questions about my earlier career.

1 Q. (BY MR. MALONEY) Okay. My
2 question was: Did you interview anyone from
3 the charities for this report?

4 A. No, I didn't.

5 Q. Okay. The next item here, it
6 says, for a primary source methodology is to
7 consult with: Government officials, both
8 central and local, including representatives
9 of regulatory authorities.

10 Did you interview or speak to
11 any government officials in connection with
12 this report?

13 A. No, I didn't. I would
14 reiterate what I was trying to say before,
15 that I'm referring to research methodology
16 and methodology in general, not specifically
17 this report. Of course, this --

18 Q. Okay. I understand. These are
19 general. But I want to ask you what you did
20 exactly, so I want to go through each of
21 these items and essentially ask you with
22 regards specifically to this report what you
23 did or didn't do, and that's all I'm asking,
24 and we can go through it rather quickly or --

25 A. Fair enough. Fair enough.

1 Q. So the third one is
2 representatives of religious institutions;
3 recipients of charity --

4 Did you -- sorry,
5 representatives of religious institutions.

6 Did you interview or discuss
7 this material for this report with religious
8 institutions, "yes" or "no"?

9 A. No.

10 Q. The next one is discussions or
11 interviews with recipients of the charity and
12 welfare support.

13 Did you discuss or interview
14 anybody that was receiving any of the charity
15 from Muwafaq or Kadi in connection with this
16 report?

17 A. No.

18 Q. The next one is government
19 publications and websites.

20 Did you review government
21 publications and websites in connection with
22 this report?

23 A. Yes.

24 Q. Okay. I'm going to circle
25 that, and we'll come back to that. Well,

1 actually, if you can concisely tell me what
2 it is that you consulted.

3 A. Government publications and
4 websites.

5 Q. And they're listed on your list
6 of materials considered?

7 A. You asked me to be concise, and
8 you asked me a very general question. But a
9 lot of reports from the United States
10 government in particular and United Nations
11 and et cetera.

12 Q. Right. And my follow-up to
13 that is they're all listed on anything you
14 considered. Government publications and
15 websites are listed in the attachment to your
16 report or the supplement provided by
17 Mr. Salerno; correct?

18 A. Yes. Yes. Yes.

19 Q. The next one is personal
20 observations, especially through participant
21 observation.

22 What, if any, participant
23 observation or personal observation did you
24 make in connection with this report?

25 A. It was not in connection with

1 this report, but in the -- in connection with
2 my wider expertise and publications.

3 Q. Are you referring to your
4 general work on the history of Islamic
5 charities?

6 A. On the history of Islamic
7 charities and on the encounters they've had
8 with regulatory authorities and legal systems
9 in different countries.

10 Q. Would you please try to keep
11 your voice up.

12 A. The encounters with regulatory
13 authorities and legal systems in different
14 countries.

15 Q. And that's general background,
16 not specific to Mr. Kadi; correct?

17 A. Correct.

18 Q. And I'll save Mr. Carter the
19 trouble of asking you the same question if I
20 were asking about IIRO and Muslim World
21 League, your report is not specific to them
22 in this regard, but your general background
23 and your publications on Islamic charities
24 and regulatory authorities; fair?

25 MR. NASSAR: Objection, form.

1 MR. SALERNO: Yeah, objection
2 to form.

3 A. It's different, because in the
4 case of IIRO and the MWL, I have had
5 interviews and I've known personally some of
6 the protagonists, have made many personal
7 observations. So it's different from the
8 cases --

9 Q. (BY MR. MALONEY) Okay. And
10 you did touch on some of that earlier. I'm
11 going to either come back or leave that for
12 Mr. Carter.

13 The next item on primary
14 sources to consult with would be written
15 materials such as letters, reports, business
16 records, in-house memoranda, photographs,
17 websites, and promotional and fundraising
18 material.

19 Did you specifically use that
20 methodology for this Kadi report?

21 A. Yes. Just to take photographs,
22 I used a picture of Mr. Kadi with
23 ex-President Jimmy Carter and Rosalynn at the
24 Al-Hekma -- Dar Al-Hekma women's college,
25 but -- I think it's inauguration. That's

1 just one example of --

2 Q. What year was that photo?

3 Sorry.

4 A. The photograph of Mr. Kadi
5 posing with ex-president Jimmy Carter and
6 Rosalynn Carter at the ceremony to do with
7 the Dar Al-Hekma women's college, which he
8 co-sponsored and co-founded.

9 Q. And my question was what year
10 was the photo?

11 A. I'll have to look that up on
12 my -- I don't have that in mind, but I think
13 it was the 1990s.

14 Q. Can I ask on this particular
15 primary source group of material, are all of
16 the items -- the material such as letters,
17 reports, business records, in-house memoranda
18 and photographs and websites -- listed on
19 your list of reliance materials in connection
20 with the report --

21 A. Mr. Maloney, you've asked me a
22 question. I've asked for a moment to just
23 find the date. You asked the date of the
24 photograph.

25 Q. I was hoping you would know it.

1 If you don't, if you need time to go off the
2 record --

3 A. I do know. I have it for you.
4 I have it for you.

5 Q. Okay. Go ahead.

6 A. Please, you should give me time
7 to answer. It was in the year 2000.

8 Q. Okay. So with regard to -- any
9 other written material such as letters,
10 reports, business records, in-house
11 memoranda, photos or websites that you can
12 think of that you utilized in connection with
13 the Kadi report?

14 A. Do you want me to give
15 examples?

16 Q. Yeah, but I guess really what I
17 would ask as a follow-on is, are they all
18 listed in your attachment to your report and
19 the supplement?

20 A. I believe so. One excellent
21 example is the memorandum that Mr. Carter
22 sent out requiring one of his -- requiring
23 the Muwafaq charity to distribute its aid
24 without any discrimination between religious
25 groups and so as not to give any assistance

1 to noncompetents. I thought that was a
2 useful piece of evidence.

3 Q. So you consider that useful,
4 but earlier today you agreed and admitted
5 that source material like that might come
6 with a bias; correct?

7 MR. SALERNO: Objection.

8 A. Of course, it could. Any
9 information can come with a bias, but on the
10 face of it, this was a bona fide attempt by
11 Mr. Kadi to ensure that his charities were
12 run according to principles of
13 nondiscrimination particularly.

14 From what I recall, religious
15 discrimination --

16 MR. SALERNO: Let him finish,
17 please, Andrew.

18 A. Particularly religious
19 discrimination, and particularly to avoid
20 giving any help to noncompetents -- sorry, to
21 competent. To avoid giving any help to
22 competent.

23 Q. (BY MR. MALONEY) And you took
24 what Mr. Kadi said at face value; correct?

25 A. I didn't say that. I said that

1 on the face of it, this was what he was
2 saying. Of course, there's the possibility
3 that he was lying through his teeth.

4 Q. Okay.

5 A. I believe that if Mr. Kadi had
6 shown any inclinations towards jihadist
7 ideology, it would have seeped out in the
8 course of these proceedings. And I see no
9 evidence at all that he had any sympathy with
10 jihadist ideology. The fact that he -- the
11 fact that he supported a women's college and
12 on other occasions, he supported training for
13 women. And so this is completely at odds
14 with al-Qaeda.

15 Q. So are you saying that it's not
16 likely for a person that supports a charity
17 or good works to also simultaneously support
18 jihadists, including al-Qaeda? Are they
19 mutually exclusive in your mind?

20 MR. SALERNO: Objection, form.

21 A. I didn't say that, Mr. Maloney.
22 I said that I believe that if any sympathy of
23 Mr. Kadi with jihadist extreme violentism
24 ideology were there, it would have seeped out
25 somewhere in this immense documentation.

1 I've looked at masses of material. I can't
2 find any evidence that Mr. Kadi had any
3 sympathies of this kind. And there's
4 evidence for his support of the women's
5 college, which was before 9/11.

6 So it couldn't be argued that
7 it was done to sort of exculpate himself from
8 any allegations of nefarious conduct. But
9 also there are other examples of him being
10 willing to give support to Christians, and
11 some countries that -- it just seems to me
12 there's no evidence presented so far -- of
13 course, there might be, that he had only kind
14 of sympathy in that direction.

15 Of course, you could argue that
16 he was an incredibly devious person who had
17 an enormous fore-trail in creating this front
18 for al-Qaeda, but I haven't seen any evidence
19 on it.

20 Q. (BY MR. MALONEY) The last item
21 on primary sources you listed here was court
22 documents.

23 Did you review court documents
24 in connection with your Kadi report?

25 A. Yes, I read the -- among

1 others, I read the United Nations court
2 documents. Which are -- yes.

3 Q. And it's listed in your list of
4 materials that you relied on; right?

5 A. Yes.

6 Q. And any other court documents?

7 A. I'll have to go through the
8 list to remind myself of this.

9 [Document review.]

10 MR. MALONEY: Why don't we go
11 off the record. If you need some time
12 to review, let's go off the record.

13 A. No, no. It's the case of --
14 near the end of the documents, United States
15 District Court, District of Massachusetts.
16 This is the Muntasser case.

17 Maybe it's not the ones. I
18 haven't looked at them exhaustively, but that
19 leaps to the eye.

20 Q. And these were supplied to you
21 by Mr. Salerno?

22 A. This particular one I supplied
23 myself.

24 Q. Okay. And why is it that you
25 sought that?

1 A. I'll have to reflect upon that.

2 Q. I'm sorry, I thought you knew
3 because you said you went yourself to get
4 this. I thought you might know why you did
5 it.

6 A. Well, I do know, but I'm trying
7 to find the place in my expert report that I
8 referred to it. If you will give me a
9 moment, I will find it.

10 Q. Sir, if you need time, we're
11 going to go off the record, unless you --

12 A. Well, if this is important, I
13 will -- it's just --

14 Q. I don't know how important it
15 is. It's up to you to determine.

16 A. I'm not saying it's
17 unimportant, but I just can't remember the
18 exact place in this -- I would need just a
19 few minutes to scroll.

20 Q. Okay. Why don't we go off the
21 record, and you can take a look for it.

22 A. Okay.

23 THE VIDEOGRAPHER: Off the
24 record at 4:02 p.m.

25 (Recess taken, 4:02 p.m. to

1 4:03 p.m. BST)

2 THE VIDEOGRAPHER: Back on the
3 record at 4:03 p.m.

4 Q. (BY MR. MALONEY) Mr. Benthall,
5 we went off the record for a few minutes for
6 you to look for something in your report.

7 A. Yes.

8 Q. Did you find it?

9 A. I found it. Yes, I found it.
10 It's the top of -- it's the top of page 26.
11 Or actually footnote 53, continuation of
12 footnote 53, which goes from page 25 to 26.

13 Q. I may come back to that and ask
14 you some questions, but I want to continue on
15 with the methodology you used or didn't use
16 in this case.

17 If we go back to page 8 of your
18 report. We covered the first category of
19 your methodology, which was the primary
20 sources that you've listed. I want to talk
21 briefly about the second category, which are
22 secondary sources you listed.

23 A. Yes.

24 Q. Such as open-source academic
25 articles and books.

1 I saw on your list you have
2 several academic articles and books listed
3 there. I assume that everything that you
4 consulted with in connection with the Kadi
5 report is on that list; correct?

6 A. I believe so.

7 Q. Okay. Same for newspaper
8 articles and websites, you've listed some of
9 those on your reliance materials; correct?

10 A. Yes.

11 Q. And interviews with other
12 researchers.

13 Did you do that in this -- in
14 connection with the Kadi report?

15 A. Not specially in connection
16 with this report, but, of course, I have in
17 my memory interviews with other researchers
18 and with journalists and diplomats that I
19 might have remembered when writing the
20 report.

21 Q. Specific to Mr. Kadi or Muwafaq
22 or any of Kadi's companies or just background
23 on Islamic charities in general?

24 A. Background and with one or two
25 researchers and journalists.

1 Q. I couldn't hear the end of
2 that. Background --

3 A. With one or two researchers and
4 journalists. Sometimes on a confidential
5 basis, that I wouldn't be able to cite in the
6 report, but this was not during the course of
7 writing the report but from my body of
8 experience of working on Islamic charities.

9 Q. Okay. Sir, my question was
10 more specific. Did you -- when we talked
11 about general background, that's general
12 background for Islamic charities, not
13 specific to Mr. Kadi or Muwafaq or any of
14 Mr. Kadi's businesses; correct?

15 A. Correct.

16 Q. You've listed here intelligence
17 reports when made available, other government
18 reports.

19 Did you utilize any of those in
20 connection with the Kadi report?

21 A. Yes, I've seen some
22 intelligence reports and government reports.

23 Q. And they're listed on your list
24 of materials relied upon; right?

25 A. Yes.

1 Q. How does that differ from the
2 government reports that you've listed as a
3 primary source?

4 A. Well, some government reports
5 are expressions of opinion, so are some
6 intelligence reports, and they don't have
7 quite the same cogency as a primary source.

8 Q. Well, when you talk about a
9 government report being a primary source,
10 what specifically are you referring to? What
11 does that mean to you?

12 A. You're referring to the
13 paragraph before?

14 Q. Yes.

15 A. Let me just scroll up. I've
16 got it in my -- yes.

17 When it says here reports, it
18 doesn't actually say government reports, but
19 any report -- a factor report. The
20 distinction I would make is between a report
21 which is factual and one which is an
22 expression of analysis and opinion. But the
23 bold line between a primary source and a
24 secondary source is occasionally blurred.

25 Q. What if it's a government

1 report that's purporting to summarize the
2 interview of a witness? Is that an opinion
3 or is that a factual report?

4 A. Well, a government report --
5 while I would say that is -- I would class
6 that as a secondary report, because it is
7 recording one person's impression or analysis
8 of a witness statement.

9 Q. So unless they took the
10 statement down verbatim or recorded it, it's
11 not factual. It's a -- it's a summary of the
12 interviewer's impression, is that what you're
13 saying?

14 A. I would say that, yes.

15 Q. Okay. The last item here you
16 write: Statistical surveys, including mass
17 public opinion surveys.

18 What are you referring to
19 there?

20 A. I don't think there were any
21 actually drawn on for this particular report.

22 Q. Okay. By the way, I assume
23 that in the first category on primary sources
24 where you listed letters, reports, and
25 business records, you would consider

1 financial reports to fall into the category;
2 correct?

3 A. Well, again, this is a little
4 bit of a borderline case, because a financial
5 report is -- what it is it's a primary
6 source; but at the same time, one wants to
7 know to what degree it's authenticated and to
8 what extent it can be regarded as an
9 objective statement of the facts.

10 So as I said, I think the
11 distinction between primary and secondary
12 source is a bit blurred at times for anybody,
13 but I wanted to make the distinction between
14 something that is actually factual and can't
15 be rebutted and secondary sources which
16 include an element of analysis and
17 interpretation.

18 Q. Did you review financial
19 reports in connection with the Kadi report?

20 A. I did indicate some of the
21 Pakistan offices, which are cited -- which I
22 think I mentioned in my report.

23 Q. Any other financial reports?

24 A. Not that I can recall.

25 Q. Why did you review the Pakistan

1 financial report but not Sudan or any of the
2 other Muwafaq locations or any of the Kadi
3 businesses?

4 A. There was limited time to
5 finish the -- to write the report, and I --

6 Q. You didn't have enough time to
7 review the financial records --

8 MR. SALERNO: Mr. Maloney,
9 please let the witness try to finish.

10 MR. MALONEY: I thought he was
11 done.

12 A. No, I -- all I can say is I --
13 I had these made available to me. I think
14 they were cited -- I think it was because
15 they were cited by Mr. Comras. I reviewed
16 all of Mr. Comras' footnotes and assumed that
17 the burden of the plaintiffs' case against
18 Mr. Kadi would be incorporated in Mr. Kadi's
19 expert report.

20 Sorry, Mr. Comras' expert
21 report.

22 Q. (BY MR. MALONEY) So the reason
23 you reviewed the Pakistan financials were
24 because they were mentioned by Mr. Comras;
25 correct?

1 A. Yes.

2 Q. He mentioned some other
3 financial records. You didn't review those,
4 though, did you?

5 A. No, I didn't. Not that I can
6 recall.

7 Q. And one of the reasons I think
8 you just said is you didn't have enough time;
9 correct?

10 A. Yes.

11 Q. Would it be important to look
12 to the totality of the evidence that's
13 available for you to review to determine
14 whether or not Mr. Kadi's financial records
15 may have shown support for al-Qaeda?

16 MR. SALERNO: Objection to
17 form.

18 A. I couldn't do everything in
19 writing a short report of this kind.

20 MR. MALONEY: Fair enough.

21 If you just bear with me for a
22 few minutes, I may be almost done with
23 my questions.

24 Q. (BY MR. MALONEY) Mr. Benthall,
25 are you familiar with the methodologies that

1 regulators and government investigators used
2 to determine whether or not a business or
3 charity is money laundering and/or financing
4 terrorism?

5 A. I'm fairly familiar, because I
6 am -- ever since the Montreux Initiative
7 started, I have -- this was a very key issue
8 in the core group's discussions. This is in
9 the very early days of FATF, F-A-T-F, when
10 they were having a go particularly at
11 nongovernmental organizations as being,
12 according to them, particularly risky,
13 presenting opportunities for bad behavior.

14 And since then, I have -- I
15 have had contact with a Charity and Security
16 Network, which was founded by Kay Guinane,
17 the New York-based -- sorry, Washington-based
18 lawyer who was a member of the core group of
19 the Montreux Initiative, and the Charities
20 and Security Network are -- contains an
21 extremely valuable set of information on its
22 website in all aspects to do with things like
23 material support and laundering and
24 counterterrorist finance.

25 Also, since 2016, I've been a

1 body, but it had other audits. It had
2 representation from counterterrorist
3 officials of the Swiss foreign office, and we
4 had meetings of various kinds on these
5 matters.

6 Just to give an example, I went
7 for a meeting in Geneva with the chairman of
8 the ^ he's killing me. It's Swiss Private
9 Bankers Association. Cap here? association of
10 Swiss private bankers, who explained that it
11 was virtually impossible for an Islamic
12 charity to be serviced by a Swiss bank at
13 that time. He was not a representative of
14 the government, but it's obviously very close
15 to the policies of the Swiss government at
16 the time.

17 Q. Just please try to keep your
18 voice up.

19 My question is, if you --
20 really, if you are familiar with or have
21 training or experience in what the government
22 regulators do to investigate money laundering
23 or terror financing.

24 A. I don't --

25 Q. Have you personally had

1 training in that area of what the government
2 regulators do to ferret that out?

3 A. I don't have such training, no.

4 Q. Do you know what protocols are
5 in place by the Organization for Economic
6 Cooperations, the OECD?

7 A. I've heard about this, but I'm
8 more familiar with FATF, but I -- I would
9 note that the FATF only gave its attention to
10 terrorist finance in October 2001. Since
11 then, it is exclusively concerned with money
12 laundering.

13 Q. So the -- when you say you're
14 familiar with the FATF, what is your
15 familiarity? Do you understand what
16 methodologies they used to ferret out terror
17 financing?

18 MR. SALERNO: Objection,
19 foundation.

20 A. There's been a lot of -- that
21 came -- they were pretty public about their
22 investigations in the early 2000s, and
23 they've been in constant dialogue with the
24 Charity and Security Network about these
25 issues. I must say I'm a little bit rusty

1 about this because until I was asked to
2 provide expertise on this case, I've been --
3 the last few years I've been more concerned
4 with other things.

5 But until -- during the
6 Montreux Initiative, which was 2005 to 2014,
7 I kept pretty up-to-date with these
8 questions, and I've kept -- I've kept a sort
9 of watchful eye on it ever since, but I
10 couldn't -- if you quiz me about the details,
11 I am -- wouldn't be able to give you an
12 answer now.

13 But I certainly know about the
14 thinking within FATF at the end of -- at the
15 beginning of the 21st Century. I don't know
16 about the OECD. I've thought about it, but I
17 don't have any special experience at that.

18 Q. (BY MR. MALONEY) I'm a little
19 confused about what you just said about the
20 FATF.

21 Do you know what methodology
22 they use when they're investigating terror
23 financing since 2001?

24 A. I know what they used at the
25 early 21st Century. I'm rather out of date

1 with what they are doing with -- how they
2 regulate the charities and other
3 organizations now.

4 Q. What they used after the 9/11
5 attacks 2001, 2002; what methodology do they
6 use?

7 A. They were particularly
8 concerned with -- particularly with -- are
9 you talking about nongovernmental
10 organizations in particular?

11 Q. Yes. Their primary role after
12 the September 11th attacks was to investigate
13 terror financing, was it not?

14 A. As I said, they expanded their
15 role from money laundering to terrorist
16 finance after 9/11, and they began to look
17 particularly at the vulnerability of the
18 nonprofit sector for terrorist financing, and
19 there was a lot of memoranda exchanged at
20 that time, which I read and absorbed and
21 discussed with colleagues.

22 And since then, there's been a
23 pushback from the charities' security network
24 and indeed the whole United States nonprofit
25 sector, arguing that they went rather too far

1 in making life difficult for NGOs by making
2 too many assumptions about their culpability,
3 which were not necessarily justified.

4 Q. Was their goal to prevent
5 terror financing?

6 MR. SALERNO: Objection.

7 A. After 20 -- 2001, one of their
8 principal goals was certainly to prevent and
9 preempt terrorist financing, yes.

10 Q. (BY MR. MALONEY) And the goal
11 of the charities that you just mentioned as a
12 group was to be able to stay in, business
13 essentially, to continue to raise money to do
14 charitable good works, humanitarian
15 functions; correct?

16 MR. SALERNO: Objection to form
17 and foundation.

18 A. Could you be a bit more
19 specific, please, about your question -- with
20 your question?

21 Q. (BY MR. MALONEY) Well, you
22 mentioned in your last answer that there was
23 pushback from charities to the FATF. And I
24 assume -- maybe I'm wrong to assume this, but
25 the pushback was the charity is saying we

1 need to continue doing our good works, we
2 need to continue to raise money and use the
3 money for humanitarian purposes.

4 Is that the pushback you're
5 talking about?

6 A. That's not at all what I meant.
7 I'm talking about the charity sector in
8 general. There was a general -- what
9 happened after 9/11 was that the broad sway
10 the Muslim charities had measures taken
11 against them, some of which may have been
12 completely justified but other ones probably
13 weren't. And some of them were put in a very
14 difficult position.

15 And the mainstream,
16 particularly secular and Christian charities
17 in the United States, were quite slow to
18 react to this. But afterwards, after a few
19 months or very few years, they came to
20 realize that coming down especially hard on
21 Muslim charities was -- had the side effect,
22 if you like, of affecting all charities
23 working in conflict zones.

24 So the Charity and Security
25 Network was set up with very broad, very

1 MR. SALERNO: That's true.

2 MR. NASSAR: I have the same
3 objection. You're harassing the
4 witness.

5 MR. MALONEY: Thank you.

6 MR. NASSAR: You're welcome.

7 Q. (BY MR. MALONEY) Can you
8 answer that question, Mr. Benthall?

9 A. I'm afraid you'll have to
10 repeat the question. I got a bit distracted.

11 Q. Are you familiar with the
12 methodology used by the U.S. Treasury
13 Department's OFAC, Office of Foreign Asset
14 Control?

15 A. I'm familiar with a number of
16 the designations that they publish. As
17 regards to methodology, this is very -- this
18 is secret. In fact, it's not --

19 Q. So it's outside your area of
20 expertise; correct?

21 MR. SALERNO: Objection, that's
22 not what he said.

23 A. I said that the methodology of
24 OFAC is secret and not in the public domain,
25 so how would I know about it?

1 conclusion."

2 He's quoting your report, and
3 he said you cannot testify to that; correct?

4 A. That is what it says, yes.

5 Q. And then he goes on -- the
6 Court goes on to say: A close review of
7 Mr. Benthall's report shows that Mr. Benthall
8 has no expertise whatsoever in "financial
9 irregularities," the provision of "banking
10 services" by "financial institutions," or
11 whether the charitable organizations at issue
12 here are or are not Hamas fronts.

13 Did the Court say that about
14 you, sir?

15 A. I'm reading this as what --
16 what I see on the screen, and I assume it's
17 correct.

18 Q. And the Court went on and said:
19 Moreover, he -- that's you, Mr. Jonathan
20 Benthall -- has no reliable basis or
21 methodology to reach the conclusions he
22 reached on these issues. In addition, an
23 opinion as to the state of mind of an
24 organization is inadmissible.

25 Did the Court say that about

1 you, sir?

2 A. It suggests so, yes.

3 Q. And then the Court went on to
4 exclude portions of your expert opinion;
5 correct?

6 A. Yes.

7 MR. MALONEY: Thank you, sir.

8 If we could take a break right now, I
9 may be done, but I just want to check
10 my notes and confer with counsel. And
11 Mr. Carter may have some questions for
12 you or Mr. Haefele.

13 THE VIDEOGRAPHER: Off the
14 record at 4:46 p.m.

15 (Recess taken, 4:46 p.m. to
16 5:04 p.m. BST)

17 THE VIDEOGRAPHER: Back on the
18 record at 5:04 a.m.

19 MR. MALONEY: Mr. Benthall,
20 thank you very much. That's all the
21 questions I have for you at the
22 moment. I think my colleague, Sean
23 Carter, who is one of the plaintiffs'
24 co-counsel may have some questions for
25 you.

1 dismissed in 1996.

2 And the administration had got
3 caught up with the expansion, and there were
4 irregularities, which as far as I can see,
5 Dr. Basha was trying to clamp down on. And
6 that's why I didn't actually see this as a --
7 it's an admitted matter that these branches
8 were designated. I've expressed -- I
9 expressed in my occasional paper a little bit
10 of concerns -- not concern, but doubt as to
11 why the whole of the IIRO wasn't designated
12 rather than these two branches, because Saudi
13 Arabia is well known as a pretty hierarchical
14 kind of society.

15 Q. Mr. Benthall, you're not a
16 lawyer; correct?

17 A. Correct.

18 Q. And you're not offering a legal
19 opinion as to the circumstances under which
20 an organization may be charged with
21 responsibility for the conduct of its
22 employees; correct?

23 A. Could you just repeat the
24 question? It's a rather -- just repeat the
25 question, please.

1 Q. Sure. You're not offering a
2 legal opinion as to the circumstances under
3 which an organization can be held responsible
4 for the actions of its employees.

5 A. No, but I've had experience of
6 the administration of large charitable
7 organizations, particularly Save the Children
8 fund, and then I was chair of the trustees of
9 INTRAC, which was the consultancy, if I'm
10 giving advice and so forth to international
11 engineers. And the question of
12 responsibility comes up. And it's very well
13 known that it's -- it's extremely difficult
14 to run a big international organization
15 without surrendering a certain amount of
16 control, because a lot of discretion has to
17 be left to local country managers. So I
18 don't think you need to be a lawyer to reach
19 an informed judgment on such matters.

20 Q. And in your expert report, you
21 expressed your opinion as to whether or not
22 it is appropriate to conclude that the
23 leadership and apex at the IIRO were
24 ideologically aligned with al-Qaeda and had a
25 systemic intent to support the sponsorship of

1 the testimony of Dr. Basha concerning the
2 activities of Prince Turki bin Jalawi; is
3 that correct?

4 A. Yes, I did.

5 Q. And is it correct that
6 Dr. Basha testified that Prince Turki bin
7 Jalawi was sending money directly from the
8 Eastern Province office overseas in violation
9 of the IIRO's own procedures?

10 MR. NASSAR: Objection to form.

11 A. From what I recall, the Eastern
12 Province was acting irregularly, and Basha
13 was trying to call them to order.

14 Q. (BY MR. CARTER) And did
15 Dr. Basha also testify that Prince Turki bin
16 Jalawi refused to comply when Dr. Basha asked
17 him to stop engaging in his irregular
18 behaviors?

19 A. I think I recall that, but that
20 doesn't detract from the fact that Basha was
21 trying to put things right, that he
22 disapproved of what was happening and was
23 trying to put it right.

24 Q. So it was sufficient for, in
25 your view, for Basha to raise the issue, and

1 he bears no fault for the fact that the
2 behavior apparently continued after he
3 initially raised it.

4 MR. NASSAR: Objection to form.

5 A. I don't think that it's -- I
6 wouldn't defend Dr. Basha as being the most
7 brilliant administrator there ever was, but
8 on the face of it, he was doing his best if
9 we look at that memorandum sent out in 1999.

10 And if he didn't succeed, there
11 may have been other people who were -- who
12 had strings to pull and make it difficult for
13 him.

14 Q. (BY MR. CARTER) You've spoken
15 and corresponded with Dr. Basha?

16 A. I've met Dr. Basha, a long time
17 ago, but I haven't corresponded with him, or
18 I haven't had dealings with him with regard
19 to this case.

20 Q. And so you've never spoken to
21 him at all about the accusations that offices
22 of the IIRO were engaged in supporting
23 terrorist activity?

24 A. I spoke to -- when I first met
25 him in Istanbul in either 1995 or '96 as a

1 member of the core group of the Montreux
2 Initiative, and he staunchly defended the
3 record of the IIRO and said the allegations
4 against it were false.

5 Q. And did you challenge him at
6 that time with the information from any of
7 the U.S. designations of the IIRO?

8 A. No, because it was common
9 knowledge that the -- no, actually, looking
10 at the dates, I'm not sure that -- this is
11 2006. This may well have been just before
12 the designation of the -- I can't remember if
13 it was 2005 or 2006. I think 2005 before
14 these designations of the branches.

15 Q. I believe you had testified
16 earlier that you may have communicated with
17 him by e-mail or otherwise as late as 2014 or
18 2015; is that correct?

19 A. Yes, I did.

20 Q. In the context of any of those
21 communications, did you raise the allegations
22 relating to IIRO's involvement in terrorist
23 activity?

24 A. No, because I was purely
25 seeking information about IIRO.

1 I do recall in other
2 correspondence, or possibly in -- I met him
3 for the second time in Doha. This was in
4 2006. And I do remember saying to him that
5 it was a pity that the annual reports were --
6 they weren't annual reports, but the
7 reporting by IIRO was so scanty, because it
8 made it very difficult for them to defend
9 themselves against allegations. And shortly
10 afterwards, I did get a message from him
11 saying I believe you, you've been asking for
12 more information. And here it is.

13 And I received some packages by
14 post and then later e-mail communications as
15 well. But I was basically
16 information-gathering rather than challenging
17 him on any particular points.

18 Q. The reason I'm asking is
19 because a minute ago you testified about the
20 potential that there were people who had
21 strings to pull that were preventing
22 Dr. Basha from implementing the forms.

23 Was that based on some specific
24 information that Dr. Basha provided to you,
25 or is that your speculation?

1 A. Counsel, I have to admit --

2 MR. NASSAR: Objection, form,
3 mischaracterizes his testimony.

4 A. I have to admit -- nothing like
5 that came from Dr. Basha. I have to admit
6 that it's more speculation than concrete
7 evidence.

8 Q. (BY MR. CARTER) In your
9 report, you cite to one of your own papers
10 called The Rise and Decline of Saudi Overseas
11 Humanitarian Charities.

12 Do you recall that paper?

13 A. I do, yes.

14 Q. And that significantly
15 discusses the IIRO; correct?

16 A. Correct.

17 Q. And on page 2 of that report,
18 you indicate that the charge sheet against
19 IIROSA's branches during the 1980s and 1990s
20 is extensive.

21 Do you recall that?

22 A. Can you --

23 MR. CARTER: Yeah, why don't we
24 go ahead and mark as the next exhibit
25 The Rise and Decline of Saudi Overseas

1 gave the date of the foundation of IIRO as
2 1975. It should have been 1979, which I
3 would like to put on the record as an error.
4 But otherwise, I gave some examples, and
5 that's it.

6 Q. Do you believe that the
7 involvement of multiple offices of a charity
8 in supporting terrorist activity would be
9 relevant in assessing whether or not the
10 leadership approved or encouraged that
11 activity?

12 MR. NASSAR: Objection to form.

13 A. If it were proved that -- we're
14 talking about activity by branches. If it
15 were proved that branches had actually
16 behaved in a nefarious manner and that there
17 was a strong record of this; and if there was
18 no evidence that the leadership had taken
19 steps to try and control this, then I would
20 agree with you that the leaders would be
21 responsible. But in this case, there's
22 evidence that Basha was trying to do things
23 right.

24 Q. (BY MR. CARTER) In the course
25 of your work, did you conduct any inquiry to

1 determine what investigative efforts the IIRO
2 took in response to the accusations of
3 potential involvement in activity in al-Qaeda
4 activities after the embassy bombings?

5 MR. NASSAR: Objection to form.

6 Are we talking about his work in
7 drafting this report --

8 MR. CARTER: Yes.

9 MR. NASSAR: -- or in this
10 article?

11 MR. CARTER: No, in drafting
12 his report.

13 A. No, I didn't.

14 Q. (BY MR. CARTER) You are aware
15 that there were accusations in the early
16 1990s that the head of the IIRO Philippine
17 branch, Mohammed Jamal Khalifa, was connected
18 to terrorist activity; correct?

19 A. There were such allegations,
20 but what do you mean by connected? It's
21 vague words used that have not been tested in
22 the courts, and I would ask a little bit more
23 of solid evidence.

24 Q. Well, there were allegations
25 that he was involved in terrorist activity,

1 completely, as far as I can see, ignore this
2 aspect.

3 Q. Okay. But it doesn't -- still,
4 it doesn't have anything to do with whether
5 or not the organizations in question provided
6 support to al-Qaeda before 2001.

7 A. It's not -- that isn't the
8 reason why I wrote this expert report,
9 although I agreed to be retained by the -- by
10 these two defendants, but it is background
11 information, which I thought could be of use
12 to the Court if this went to trial.

13 Q. Okay.

14 MR. CARTER: Waleed, why don't
15 we take five minutes, and I'll consult
16 with my co-counsel to see if we have
17 anything further.

18 MR. NASSAR: That works. Thank
19 you.

20 THE VIDEOGRAPHER: Off the
21 record at 6:33 p.m.

22 (Recess taken, 6:33 p.m. to
23 6:41 p.m. BST)

24 THE VIDEOGRAPHER: Back on the
25 record at 6:41 p.m.

1 CERTIFICATE


2 I, DEBRA A. DIBBLE, Registered Diplomate
3 Reporter, Certified Realtime Reporter, Certified
4 Court Reporter and Notary Public, do hereby certify
5 that prior to the commencement of the examination,
6 JONATHAN BENTHALL was duly sworn by me to testify
7 to the truth, the whole truth and nothing but the
8 truth.

9 I DO FURTHER CERTIFY that the foregoing
10 is a verbatim transcript of the testimony as taken
11 stenographically by and before me at the time,
12 place and on the date hereinbefore set forth, to
13 the best of my ability.

14 I DO FURTHER CERTIFY that pursuant to
15 FRCP Rule 30, signature of the witness was not
16 requested by the witness or other party before the
17 conclusion of the deposition.

18 I DO FURTHER CERTIFY that I am neither a
19 relative nor employee nor attorney nor counsel of
20 any of the parties to this action, and that I am
21 neither a relative nor employee of such attorney or
22 counsel, and that I am not financially interested
23 in the
24 action.

25


DEBRA A. DIBBLE, RDR, CRR, CRC
NCRA Registered Diplomate Reporter
NCRA Certified Realtime Reporter
Certified Court Reporter

Dated: 8-6-2021